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1 IN THE UNITED STATES DISTRICT COURT FOR THE  
2 NORTHERN DISTRICT OF OKLAHOMA

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4

W. A. DREW EDMONDSON, in his )  
5 capacity as ATTORNEY GENERAL )  
OF THE STATE OF OKLAHOMA and )  
6 OKLAHOMA SECRETARY OF THE )  
ENVIRONMENT C. MILES TOLBERT,) )  
7 in his capacity as the )  
TRUSTEE FOR NATURAL RESOURCES)  
8 FOR THE STATE OF OKLAHOMA, )

)  
9 Plaintiff, )

)  
10 vs. )4:05-CV-00329-TCK-SAJ  
)

11 TYSON FOODS, INC., et al, )  
)

12 Defendants. )

13 -----

14 THE VIDEOTAPED DEPOSITION OF  
15 ANTHONY LAWRENCE, produced as a witness on behalf  
16 of the Defendants in the above styled and numbered  
17 cause, taken on the 9th day of October, 2007, in the  
18 City of Muskogee, County of Muskogee, State of  
19 Oklahoma, before me, Lisa A. Steinmeyer, a Certified  
20 Shorthand Reporter, duly certified under and by  
21 virtue of the laws of the State of Oklahoma.

22

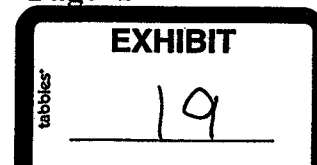
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Lawrence, Anthony 10/09/2007

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00014

1 Q What year was that?

2 A '03 or '04, 2003 or 2004.

3 Q So you were in Okfuskee County from 2002 to

4 either 2003 or 2004?

5 A Right, two years, over two years. 09:20AM

6 Q And then in 2003 or 2004 you were transferred

7 to Adair County?

8 A Yes.

9 Q And you became a soil --

10 A I was a soil conservationist at Okemah, 09:20AM

11 Okfuskee County.

12 Q Did you get a new title when you went to Adair

13 County?

14 A No, no.

15 Q So you're still a soil conservationist today? 09:20AM

16 A Yes, yes.

17 Q And you're still working in the Adair County

18 NRCS office?

19 A Correct.

20 Q So you've been in that office for three to 09:20AM

21 four years?

22 A Uh-huh, over three.

23 Q Besides the classes that you took in '85 at

24 Connors, have you had any other soil training

25 through NRCS? 09:21AM

00015

1 A Oh, yes. We've got -- there's -- I mean

2 there's always training there with us. We -- I mean

3 it's a yearly thing. I mean even your DC's,

4 everyone is in training, you know, as far as soils,

5 as far as EEO. You know, everything is -- you know, 09:21AM

6 it's -- a lot of it is OJT, on-the-job training, you

7 know, that NRCS provides.

8 Q As far as -- I'm going to divide the realm of

9 training into two spheres.

10 A Okay.

11 Q First sphere is one-the-job training, which

12 you just talked about, and second is formal training

13 such as NRCS sending you to a school.

14 A Right.

15 Q And let's stay with schools that you've been 09:22AM

16 to.

17 A Okay.

18 Q To the extent you can remember --

19 A Okay.

20 Q -- I want you to take me through from the 09:22AM

21 first to the last all the schools that you've been

22 to that involve soils or the environment,

23 phosphorus, chicken litter, anything like that. I

24 want you to take me through your history.

25 A Okay. We -- I wish I had that in front of me. 09:22AM

00016

1 Through the NRCS we do -- I guess what I'm trying --

2 we have training modules set up that we do -- that

3 they provide training to us through, whether it be

4 safety -- we've got nutrient management training.

5 You have to complete the training for the 09:22AM

6 conservation planning process. You have to be

7 certified in it. NRCS certifies its own people.

8 Can -- I want to ask a question here first. If this

9 -- at what point -- I mean I feel like I was called

10 as a private individual to this and not as a 09:23AM

11 government employee. Now, does -- do I continue to

12 answer questions that's related to my work or am I

13 a private -- just supposed to be answering -- I know

14 if I was a private individual, the only questions

15 that would be asked would be how much litter was 09:23AM

16 bought, where it was spread and things like that.

17 Now, I guess the question I'm asking, as a

18 government employee getting into where I work, you

19 know, I don't have a problem telling you what I'm

20 doing as far as my job goes, but these specialists 09:24AM

21 that -- you know, there's people above us that

22 actually set the policy.

23 Q And I'm not asking you to tell me anything

24 that you don't know. I'm not asking you to tell me

25 anything that is outside your realm. I'm just 09:24AM

00019

1 A Right.

2 Q Or at least I think that's my understanding.

3 A Right. That's exactly what we do.

4 Q Well, let me get back to where I was going.

5 I'm trying to determine what formal training through 09:26AM

6 NRCS you've had.

7 A Okay.

8 Q Schools, classes, modules, things of that

9 nature that deal with soils or the environment from

10 the beginning until now. 09:27AM

11 A Okay.

12 Q Beginning of your employment until now to the

13 extent you can remember. You're probably not going

14 to remember everything that happened back in 1988.

15 A There's a -- our list on all the training 09:27AM

16 modules would run from whatever policy comes out,

17 just like we're dealing with nutrient management

18 right now. Before we can write a nutrient

19 management plan, anybody that has planning

20 responsibility, you have to have passed a nutrient 09:27AM

21 management certification. Our agency provides that

22 testing. Within that testing is -- it can be

23 district personnel that decides they want to write

24 these; it can be third-party vendors that actually

25 come in for the same training NRCS puts on to 09:27AM

00020

1 certify them. So not only do we write plans,  
2 there's other people out there that can write the  
3 same nutrient management, animal waste management  
4 plan, a conservation plan or whatever as long as  
5 they are certified through the State of Oklahoma. 09:28AM

6 Q When you say certified through the State of  
7 Oklahoma, I guess that gives me a little bit of  
8 confusion because I thought it was NRCS that was  
9 certifying you.

10 A There are -- there are -- the State of 09:28AM  
11 Oklahoma certifies plan writers. You can get a  
12 certification to write them right now, and let me --  
13 let me try to give you an idea of what I'm talking  
14 about here. NRCS through funding that's available  
15 through the federal government -- there was funding 09:28AM  
16 when our farm bill come out for third-party vendors.  
17 I'm saying a private individual sitting out there  
18 that is certified in plan writing, in nutrient  
19 management, and there are a lot of people out there.

20 There's a website right now you can go on under -- 09:28AM  
21 just go to USDA. It will pull up; it will say TSP  
22 providers, technical service providers, and they are  
23 all across the United States. Those people can  
24 write, and they are individual private firms. They  
25 can write a waste management plan, a conservation 09:29AM

00133

1 If you'll compare the two Code 590's, the February  
2 2004 and the March of 2007, the purposes of Code 590  
3 have remained the same?

4 A Uh-huh.

5 Q Is that accurate? 01:35PM

6 A Yes.

7 Q And those purposes include to budget and  
8 supply nutrients for plant production?

9 A Uh-huh.

10 Q So part of what the nutrient management plan 01:35PM

11 is to do is to provide nutrients to whatever plant

12 is being produced on that field; correct?

13 A Yes, yes.

14 Q And then it's also -- one of the purposes is

15 to properly utilize manure or organic byproducts as 01:35PM

16 a plant's nutrient source. So one of the purposes

17 is to manage organic fertilizers as the fertilizer

18 for the plant; is that accurate?

19 A Yes.

20 Q Okay, and then the next one, the next purpose 01:36PM

21 is to minimize agricultural non-point source

22 pollution of surface and groundwater resources.

23 That's remained the same; correct --

24 A Yes.

25 Q -- as one of the purposes? So one of the 01:36PM

00134

1 purposes of the nutrient management plan or animal  
2 waste management plan is to minimize any pollution  
3 of surface or groundwater; correct?

4 A Yes.

5 Q And then also to protect air quality by 01:36PM  
6 reducing nitrogen and/or particulate emissions to  
7 the atmosphere?

8 A Yes.

9 Q And to maintain or improve the physical,  
10 chemical or biological conditions of the soil? 01:36PM

11 A Yes.

12 Q Now, in the 2004, February 2004 Code 590,  
13 under criteria, the general criteria applicable to  
14 all purposes, the first sentence says plans for  
15 nutrient management plan shall comply with all 01:37PM  
16 applicable federal, state and local laws and  
17 regulations. Do you see that?

18 A Uh-huh.

19 Q Is that still a general criteria of the Code  
20 590 based on your understanding of it? 01:37PM

21 A You mean in our new spec; is that what you are  
22 asking me?

23 Q Yeah. Even under the new standard, is it your  
24 understanding that that remains one of the general  
25 criteria, is that the plan -- the nutrient 01:37PM



00135

1 management plans comply with all federal, state and  
2 local laws?

3 A Yes, regulations, yes.

4 Q So you're still -- when you're drafting animal

5 waste management plans or nutrient management plans 01:37PM

6 since March of 2007, you're still taking into

7 consideration all applicable state, federal and

8 local laws?

9 A Yes, yes, we do.

10 Q Just as you did before March of 2007; correct? 01:37PM

11 A Yes.

12 Q And as you indicated earlier, any NRCS

13 employee who reviews or approves plans for nutrient

14 management has to be certified; correct?

15 A Yes, yes. 01:38PM

16 Q Now, is it your understanding that the

17 Oklahoma statutes require the nutrient management

18 plans comply with the NRCS Code 590?

19 A Yes.

20 Q And then the Code 590 says that any nutrient 01:38PM

21 management plans under this -- written under this

22 code must comply with federal, state and local laws;

23 correct?

24 A Yes.

25 Q Let's go ahead and look at Table 9, and since 01:38PM

00136

1 I don't have Exhibit 4 in front of me, I'm going to

2 just have you -- refer you to Table 9 in Exhibit 3.

3 Now, the soil test phosphorus index for a nutrient

4 limited watershed is 300, the max; correct? Let me

5 rephrase that question actually. Table 9 is 01:39PM

6 designed to give you a rate of application or an

7 amount that you can put on your land depending upon

8 your soil test phosphorus and your litter test for a

9 nutrient limited watershed; is that correct?

10 A Yes. 01:40PM

11 Q Okay. Have you ever heard of the term or used

12 the term or expression phosphorus index?

13 A Yes.

14 Q Would it be fair to say that Table 9 is

15 Oklahoma's phosphorus index for a nutrient limited 01:40PM

16 watershed based on your understanding?

17 A Yes.

18 Q And today we're here about the Illinois River

19 watershed; correct?

20 A Uh-huh. 01:40PM

21 Q And the Illinois River watershed has been

22 identified as a nutrient limited watershed; correct?

23 A Yes.

24 Q As we sit here today, the cut-off soil test

25 phosphorus for land applying poultry litter is 300; 01:40PM

00137

1 correct?

2 A Yes.

3 Q And up until sometime in 2006, the number was

4 actually 400?

5 A Yes. 01:40PM

6 Q So just to be clear, Table 9 would apply to

7 any animal waste application within the Illinois

8 River watershed; correct?

9 A Yes, that is the nutrient limited watershed,

10 yes. 01:41PM

11 Q So if I look at this table, is it possible

12 that if the soil test phosphorus for a piece of land

13 that I want to apply poultry litter to is 121 to

14 300, that I can apply a half rate depending upon the

15 slope of the land; is that true? 01:41PM

16 A Yes.

17 Q And on the next page of Exhibit 3, a half rate

18 is actually defined; correct?

19 A Yes.

20 Q So a half rate of phosphorus would be 100 01:41PM

21 pounds of P205 per acre when surface applied;

22 correct?

23 A Yes.

24 Q So if you were growing Bermuda and fescue in

25 the Illinois River watershed and if your existing 01:41PM

00245

1 use?

2 A Yes, sir, yes, sir, yes, sir.

3 Q And it looks like Mr. Teague down here had to

4 apply 67.6 tons somewhere else or somehow otherwise?

5 A Sell it, whatever. 04:23PM

6 Q Get it off his property?

7 A Yes.

8 Q Okay.

9 MR. NANCE: I don't think I've got anything

10 further at this time. 04:23PM

11 REDIRECT EXAMINATION

12 BY MS. LONGWELL:

13 Q I have some very brief follow-up questions

14 just because I'm a bit confused now on a couple of

15 issues, and you've got so many documents in front of 04:23PM

16 you, and I don't know if you still have those

17 regulations and statutes in front of you somewhere,

18 which would be Exhibit 1 and 2 I believe.

19 A You're saying you're going to take these back?

20 Q Yeah. We need to keep them for the court 04:24PM

21 reporter. There you are. You are coming up on

22 them. I'm going to have you look -- since we have

23 nice little page numbers on Exhibit 2, flip to Page

24 3 on Exhibit 2. We'll start there. Mr. Nance asked

25 you with regards to, if I read this correctly, 04:24PM

00246

1 35:17-5-5, animal waste management plan

2 requirements, A7. He specifically I believe

3 addressed -- I'm trying to find it -- he

4 specifically addressed 7C, which says poultry waste

5 shall only be applied to suitable land at 04:25PM

6 appropriate times and rate as specified by the AWMP.

7 Runoff of poultry waste from the application site is

8 prohibited. Do you see that?

9 A Yes, sir.

10 Q Now, the lead-in paragraph is 7 and 7 says the 04:25PM

11 procedures documented in the AWMP shall ensure that

12 handling and utilization of poultry waste complies

13 with the following requirements, and C is one of

14 those requirements?

15 A Yes, ma'am. 04:25PM

16 Q Okay. So this is something that you take into

17 consideration, 7C, when you create the animal waste

18 management plan; correct?

19 A Yes, ma'am.

20 Q So you're creating the animal waste management 04:25PM

21 plan to prevent runoff from the application site, so

22 that when a grower uses that plan, they're not

23 violating Oklahoma law; correct?

24 A Yes, ma'am, but based on timing and that's all

25 we can say due to rainfall. 04:25PM

00247

1 Q Because you're setting out what you -- the

2 NRCS is setting out guidelines which are in

3 accordance with Code 590 and the Oklahoma statutes

4 as they read in Exhibit 1 and 2 and providing the

5 grower guidelines for applying poultry litter on the 04:26PM

6 property so no runoff occurs; correct?

7 MR. NANCE: Object to the form.

8 A Yes.

9 Q Do you personally have any knowledge of any

10 runoff from any poultry litter application site in 04:26PM

11 the Illinois River watershed?

12 A No, ma'am.

13 Q Looking at Exhibit 1, you've got similar

14 language in 10-9.7, and Mr. Nance walked you through

15 C, 6C where it says, every poultry feeding operation 04:26PM

16 shall have an animal waste management plan, which

17 shall include at a minimum the procedures documented

18 in the animal waste management plan must ensure the

19 handling and utilization of poultry waste complies

20 with the following requirements. Once again poultry 04:27PM

21 waste shall be applied to suitable land at

22 appropriate times --

23 A Yes, ma'am.

24 Q -- and rates. Discharge or runoff of waste

25 from the application site is prohibited. This 04:27PM